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TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

DECISION ON REUSED COOPERAGE HEARING CONDUCTED JUNE 28, 1937

OCTOBER 1, 1937.

To All Bottlers of Distilled Spirits:

On June 28, 1937, the Administration conducted a public hearing[1] in Washington for the purpose of taking evidence upon a proposal to amend Regulations No. 5, relating to the labeling and advertising of distilled spirits, in such manner as to require the labels for American type whiskey, other than corn whiskey, produced on or after July 1, 1936, and stored in reused cooperage, to bear the following statement, or some similar statement: "This whiskey was stored in reused cooperate and is not entitled to claim age under government regulations."

With respect to American type whiskey, other than corn whiskey, produced on or after July 1, 1936, and stored in reused cooperage, the regulations as originally issued in January, 1936, and as now in effect, do not require or permit the labels for such products to contain any statement with reference to the age thereof. In thus restricting the use of age claims to whiskey stored in new oak containers, the Administration relied upon evidence adduced at public hearings to the effect that American type whiskey stored in new oak containers matures more satisfactorily and more uniformly than whiskey stored in second-hand barrels, and that consumers can be assured of uniform quality only when new containers are used.

It was upon this premise, to which the Administration still adheres, and with a view to complying with the mandate of Congress as expressed in Section 5 (e) of the Federal Alcohol Administration Act, that the regulations as originally issued differentiated, for the protection of the consuming public, between whiskey stored in new and second-hand containers. As a result of this action the following privileges have incidentally accrued to the benefit of those who use new cooperage:

(1) The exclusive right to market their product as "straight whiskey", "straight rye whiskey", "straight bourbon whiskey" and "a blend of straight whiskies"; and the denial of the designation "straight", in any form, to whiskey stored in second-hand cooperate.

(2) The exclusive right to use their product as a base for the production of "blended whiskey", "blended rye whiskey", "blended bourbon whiskey" and all other types of blends, under standards of identity which require all blended whiskies to contain a minimum of 20% straight whiskey, namely, whiskey which has been stored and aged in new barrels.

(3) The exclusive right to claim age for their product, on the label thereof and in the advertising matter relating thereto; with a resulting denial to the used cooperage user of any permission to claim for his product, either upon the label or in advertising matter, any age or maturity.

With full advance notice of these requirements of the labeling regulations a large majority of the distillers of the United States, on and after July 1, 1936, used only new oak containers. As a result, they will expect to derive the marketing advantages accruing from such use. On the other hand a comparatively small number of distillers, with equal notice of the regulations, chose to use, either wholely or in part, second-hand barrels for storage purposes. Some of the distillers in the latter category decided upon reused cooperage, feeling that their particular type of product was better in quality by reason of such storage than if new barrels were used. However, many of the second-hand barrel users resorted to the use of such barrels solely for competitive purposes. It appears from reports filed with the Administration by the distilling industry that there were in storage, in bonded warehouses in the United States, on July 1, 1937, approximately 8,905,715 barrels of American type whiskey. Of this quantity 279,855 barrels, or approximately 3 per cent of all American type whiskey then in storage, consisted of whiskey, other than corn whiskey, which was produced on or after July 1, 1936 and stored in reused cooperage.

It was represented to the Administration in June, 1937, that the existing regulations permitted this used cooperage whiskey to compete unfairly with whiskey stored in new barrels. In this connection it was said that retail dispensers of liquor, in the absence of explanatory label information, were in a position to make extravagant claims with respect to the characteristics of the product. It was upon the basis of this representation that the Administration, with a view to protecting the consumer from deception, conducted its hearing on June 28, 1937, and took testimony upon the proposal to amend the labeling regulations so as to require the labels upon reused cooperage whiskey to contain the statement "This whiskey was stored in reused cooperage and is not entitled to claim age under Government regulations" or some similar statement.

The Administration has carefully studied the transcript of the public hearing record and is not convinced by the facts available that sufficient reason exists for requiring the labels upon used cooperage whiskey to contain the legend quoted above. In arriving at this conclusion, the Administration is mindful of the following facts:

(1) That under the present regulations the consumer is adequately protected from deception with respect to the "age" of used cooperage whiskey by the prohibition against the use of any age claim in connection with such product; and he is adequately informed as to the "identity" of the product by those provisions of the regulations which require it to be designated merely as "whiskey", and preclude it from being desig-

[1] 2 F. R. 1241 (DI).

FEDERAL REGISTER

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nated as "straight" or from being used as a base for the production of blends.

(2) That the adoption of the amendment to the regulations, as proposed for hearing, or in a modified form, would not prevent unscrupulous retailers from making extravagant verbal claims with respect to the characteristics of the product.

(3) That distillers who used second-hand barrels for storing whiskey produced on and after July 1, 1936, with full notice of the labeling disadvantages resulting from such use, should not be further handicapped at this late date with other restrictions of which they were given no notice in advance of the date upon which the whiskies affected thereby were produced and stored.

(4) That whiskey produced on or after July 1, 1936, and stored in reused cooperage is not entitled to claim age or maturity regardless of the period of storage, with the result that no advantage accrues to the used cooperage operator by storing his product for an extended period. Under the regulations as they stand whiskey stored in reused cooperage for three years must be marketed under the same label as whiskey which has been stored in reused cooperage for one month.

(5) That the existing regulations of the Administration, which are applicable only to interstate transactions, have not accorded to used-cooperage whiskey any opportunity to compete unfairly with whiskey stored in new cooperage, as in indicated by the fact that only a small quantity of used-cooperage whiskey has heretofore been shipped in interstate commerce. Practically all of the used-cooperage whiskey produced since July 1, 1936, which has to date found its way into the retail market, has been bottled exclusively for intrastate sale within states which have not adopted the labeling provisions of Regulations No. 5. In such states used-cooperage whiskey has been bottled in substantial quantities pursuant to certificates of exemption from label approval (which the Administration was compelled by statute to issue), under labels designating the product as "straight whiskey" and claiming age for the full period of storage. This practice has given the intrastate bottler of used-cooperage whiskey competitive advantages over the interstate shipper. However, it should be noted that on and after November 1, 1937, under Regulations No. 13 of the Bureau of Internal Revenue, all persons bottling distilled spirits for intrastate sale will be required to observe the standards of identity of Regulations No. 5 of this Administration, and will be precluded from placing age claims upon whiskies produced on and after July 1, 1936 and stored in reused cooperage.

At the public hearing conducted on June 28, 1937, it was suggested by producers of used cooperage whiskey, as well as by third parties who had acquired the same, that such

whiskey be permitted to be marketed under a label upon which substantially the following statement appeared: "Stored in reused cooperage _____ months". The Administration has also rejected this proposal. Any statement upon the labels for used cooperage whiskey of the period during which it has been stored in wood, might be construed by the consumer as a statement of age, and the granting of permission to use such a statement would be unfair to producers who resorted since July, 1936 to the exclusive use of new barrels, with full notice of the benefits flowing from such use. The Administration does not propose to grant to used cooperage whiskey produced after July 1, 1936, any privileges which were not accorded to it under the regulations before the date of its production.

In connection with the public hearing conducted June 28, 1937, representations have been made to the Administration to the effect that certain types of whiskey should be permitted to be stored in carefully selected or specially treated second-hand barrels, and to claim age for the period of such storage, on the ground that such whiskies can properly mature only in selected second-hand cooperage. With respect to these representations, the Administration has determined to conduct another public hearing on November 15, 1937, (on this and other matters) the scope of which is outlined in the formal Notice of Hearing issued by the Administration under even date. In issuing this Notice of Hearing the Administration advises the industry that the regulations as they now exist must govern the labeling of all used-cooperage whiskey produced since July 1, 1936, and that if any amendment to the regulations is adopted as a result of the hearing to be held November 15, 1937, such amendment will have no application whatsoever to any whiskey produced prior to the date of its promulgation. In other words, it is the firm conviction of the Administration that whiskey produced on and after July 1, 1936, under the existing restrictive Standards of Identity, and stored in reused cooperage with full notice of the consequences of such storage, must be marketed under all of the restrictions which were imposed by the regulations prior to the date of its production.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 37–2934; Filed, October 2, 1937; 11:15 a. m.]

NOTICE OF HEARING WITH REFERENCE TO PROPOSED AMENDMENTS TO REGULATIONS NO. 5, RELATING TO LABELING AND ADVERTISING OF DISTILLED SPIRITS

OCTOBER 1, 1937.

To consider revision of requirements relating to age claims upon labels of whiskey stored in reused cooperage, to revise the standards of identify for corn and bourbon whiskeys and for other purposes.

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act as amended:

Notice is hereby given of a public hearing to be held on Monday, November 15, 1937, at 10:00 A. M., at the Mayflower Hotel, Connecticut Avenue and De Sales Street, Washington, D. C., for the purpose of taking evidence with reference to proposed amendments of Regulations No. 5, Relating to the Labeling and Advertising of Distilled Spirits: [1]

1. (a) To amend Article I (j), and other pertinent sections of the regulations, in such manner as (1) to authorize the labels upon American type whiskies produced on and after January 1, 1938, to claim age, under certain conditions and subject to specified restrictions, for the period of storage in specially selected or treated second-hand oak containers, and to require that the labels upon such whiskey indicate, in conjunction with the age statement, the type of container used for storage purposes, and (2) to prescribe standards for the selection of second-hand barrels which may be used for such storage purposes or, in the alternative.

(b) To amend Article II, and other pertinent sections of the regulations, in such manner as to create a standard of identity for so-called "light-bodied" whiskies, and to permit such whiskies to be stored in specially selected or treated second-hand oak containers, and to claim age for the full period of such storage.

2. To amend Article II, and other pertinent sections of the regulations, in such manner as to differentiate more clearly between corn whiskey and bourbon whiskey, by requiring that corn whiskey shall be manufactured from a mash comprised of not less than 80 per cent corn grain and shall be stored in uncharred oak containers, and that bourbon whiskey shall be manufactured from a mash comprised of more than 50 percent corn grain, and shall be stored in charred oak containers, or in such other manner as may be deemed necessary for the protection of the consuming public.

3. To amend Article II, Section 21, and other pertinent sections of the regulations, in such manner as to provide that brandies produced in the United States which have the taste, aroma and general characteristics of cognac, as produced in the Cognac region of France, may be designated as "cognac" if there appears in direct conjunction with such designation, in lettering substantially as conspicuous, the name of the state of other locality in the United States in which the product was produced.

4. To amend Article II, Section 21, and other pertinent sections of the regulations, to provide more specifically for the manner of labeling products which are in fact "whiskey" as known to the trade, but which do not conform to any type specified in the standards of identity; as, for example, blends of Scotch and Irish whiskies, blends of Scotch and Canadian whiskies, blends of Scotch and American whiskies, blends of Irish and American whiskies, and whiskey produced in Ireland but which does not possess the taste, aroma and other characteristics generally attributed to Irish whiskey.

5. To amend Article III, Section 32, and other pertinent sections of the regulations, in such manner as to make it optional, rather than mandatory, that age be stated for American type whiskey less than one year old.

6. To amend Article III, Section 34 (a), and other pertinent sections of the regulations, in such manner as to require that products for which there is no prescribed or recognized class or type designation, be labeled not only under a distinctive or fanciful name, but also with a truthful statement of composition.

7. To amend Article III, Section 38 (d), and other pertinent sections of the regulations, in such manner as to permit the labels upon certain classes of distilled spirits, including cordials and liqueurs, marketed under names which convey to the consumer's mind a color significance, and which derive their color exclusively from fruits, flowers, plants and other natural substances, to omit the legend "Artificially colored" and to state in lieu thereof the true source of the color of the product.

8. To amend Article IV, Section 46 (d), and other pertinent sections of the regulations, in such manner as to require that American type whiskies produced abroad and imported into the United States, under the designation "straight whiskey" of any class, be accompanied by appropriate foreign government certificates indicating, in addition to the data now prescribed, that such products have acquired their age under the same conditions as are applicable to the aging of straight whiskies produced in the United States.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 37–2933; Filed, October 2, 1937; 11:15 a. m.]

[1] 1 F. R. 92.

POST OFFICE DEPARTMENT.

NOTIFICATION TO SENDER WHEN COPIES OF A PUBLICATION MAILED UNDER SECTION 574½, POSTAL LAWS AND REGULATIONS, ARE FORWARDED TO ADDRESSEE AT A NEW ADDRESS

SEPTEMBER 25, 1937.

Attention is renewed to paragraph 5, section 769, Postal Laws and Regulations, which provides that when ordinary mail of the third and fourth classes is undeliverable on

account of the removal of the addressee, the sender will be notified of the new address on card Form 3547 (for which a postage charge of 2 cents shall be collected upon delivery to the sender), provided the mail itself bears a request for such notice and a pledge to pay the postage thereon.

When copies of a publication mailed under the provisions of section 574½, Postal Laws and Regulations (not second-class matter), bear a request for notice on Form 3547 and a pledge to pay postage therefor, such notice should promptly be furnished the mailer, giving the new address of the addressee in case of his removal when the new address is known, including local change of address, the 2-cent charge for the notice to be collected from the mailer upon its delivery, in the same manner as other postage due is collected.

[SEAL] ROY M. NORTH,
Acting Third Assistant Postmaster General.

[F. R. Doc. 37-2943; Filed, October 4, 1937; 12:13 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

ORLAND IRRIGATION PROJECT

PUBLIC NOTICE OF ANNUAL WATER CHARGES[1]

SEPTEMBER 15, 1937.

1. *Annual operation and maintenance charges.*—The annual operation and maintenance charge for the irrigation season of 1937 against all lands of the Orland Irrigation Project, California, under public notice, shall be a minimum charge of one dollar ($1.00) per irrigable acre whether water is used thereon or not, which charge will permit the delivery of not to exceed 3 acre-feet of water per acre, and additional water, up to the amount of the surplus natural flow water used prior to the time it became necessary to draw upon any storage water, will be furnished at the rate of ten (10) cents per acre-foot and further additional water at the rate of forty (40) cents per acre-foot.

2. Pursuant to the act of June 24, 1936 (49 Stat. 1907), and the provisions of supplementary contracts executed thereunder, the 1937 operation and maintenance charges against all water users who have executed such supplementary contracts will be consolidated with the construction cost of Stony Gorge Reservoir and paid when such construction cost is paid. Operation and maintenance charges for the year 1937 against all water users who have not executed such supplementary contracts will become due and payable on December 31, 1937, and should be paid to the Bureau of Reclamation, Orland, California.

T. A. WALTERS,
First Assistant Secretary.

[F. R. Doc. 37-2937; Filed, October 4, 1937; 9:36 a. m.]

National Bituminous Coal Commission.

[Order No. 55]

AN ORDER REQUIRING EACH DISTRICT BOARD WITHIN MINIMUM PRICE AREAS NUMBER ONE AND NUMBER TWO TO DETERMINE FROM COST DATA SUBMITTED BY THE PROPER STATISTICAL BUREAU OF THE COMMISSION THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE ASCERTAINABLE TONNAGE PRODUCED IN THEIR RESPECTIVE DISTRICTS IN THE CALENDAR YEAR 1936, AND TO ADJUST SUCH WEIGHTED AVERAGE COSTS SO DETERMINED AS MAY BE NECESSARY TO GIVE EFFECT TO CHANGES WHICH MAY HAVE BEEN ESTABLISHED SINCE JANUARY 1, 1936, AND RESTRICTING PUBLICATION OF INFORMATION RELATIVE THERETO

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each District Board within Minimum Price Areas Number One and Number Two shall, as soon as possible, determine the weighted average of the total costs of the ascertainable tonnage produced in its district in the calendar year 1936, using as the basis for such determination cost data hereinafter made available to it. Each District Board shall adjust the average costs so determined, as may be necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which may have been established since January 1, 1936.

2. That the Secretary of the Commission shall immediately transmit to each District Board the proper statistical bureau's compilation of the cost data furnished, pursuant to Order No. 15 of the Commission,[1] by the producers whose names are located within the district.

3. That the compilations of cost data submitted by the proper statistical bureaus of the Commission to the respective District Boards and the data of the District Boards upon which adjustments of the average costs are to be made, shall be deemed confidential and shall not be made public.

4. That on or before October 8th, 1937, each District Board shall submit to the Commission such determinations and all computations upon which they are based in order that the Commission, after review, may proceed to a determination of the weighted averages of the total costs of the tonnages of Minimum Price Areas Number One and Number Two.

The Secretary of the Commission shall forthwith mail a copy of this order to the Secretaries of the respective District Boards within Minimum Price Areas Number One and Number Two.

By order of the Commission.

Dated this 1st day of October, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-2938; Filed, October 4, 1937; 11:13 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

G. R.—A. A. A.—Series G, No. 1, Amend No. 2

Issued October 4, 1937

AMENDMENT OF REGULATIONS GOVERNING MEDIATION AND ARBITRATION UNDER SECTION 3 OF THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

By virtue of the authority vested in the Secretary of Agriculture by section 3 (b) of the Agricultural Marketing Agreement Act of 1937 (Public Law No. 137, 75th Congress), approved June 3, 1937, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give notice of the following additional amendment to General Regulations—A. A. A.—Series G, No. 1, as amended, such regulations, as amended hereby, to be in force and effect from the date hereof until further amended or superseded by regulations hereinafter made by the Secretary of Agriculture:

Section 406 of Article IV of the aforesaid General Regulations is amended by deleting paragraph C and inserting in lieu thereof the following paragraph:

"C. The arbitrator, in making the award, may use his own technical knowledge in addition to the evidence submitted by the parties."

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in duplicate, in the city of Washington, District of Columbia, on this 4th day of October, 1937.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-2944; Filed October 4, 1937; 12:45 p. m.]

[1] Act of June 17, 1902, 32 Stat. 388, as amended and supplemented.

[1] 2 F. R. 1477 (DI).

Bureau of Biological Survey.

AMENDMENT OF ORDER PERMITTING AND REGULATING THE HUNTING OF MIGRATORY WATERFOWL AND COOTS WITHIN DESIGNATED AREA OF THE LAKE BOWDOIN MIGRATORY WATERFOWL REFUGE, MONTANA

The first paragraph of the Order of the Secretary of Agriculture of October 7, 1936 (1 F. R. 1558), entitled "Order Permitting and Regulating the Hunting of Migratory Waterfowl and Coots within Designated Area of the Lake Bowdoin Migratory Waterfowl Refuge, Montana", is hereby amended so as to read as follows:

"Pursuant to regulations 1 and 8 of the regulations of the Secretary of Agriculture of May 7, 1930, governing the administration of Federal wildlife refuges, it is hereby ordered that migratory waterfowl (except those species not permitted to be taken under the Migratory Bird Treaty Act Regulations) and coots may be taken during the period prescribed for the taking of such birds in Montana by the said Migratory Bird Treaty Act Regulations, if permitted by State law, within the area of Lake Bowdoin Migratory Waterfowl Refuge, in Phillips County, Montana, established by Executive Order No. 7295, of February 14, 1936, embraced within the exterior boundary hereinafter described, and designated "Public Shooting Ground" on the diagram hereto attached and made a part of this order, subject to the following conditions and restrictions:"

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed at the City of Washington this 30th day of September 1937.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-2932; Filed, October 1, 1937; 3:42 p. m.]

AMENDMENT OF ORDER PERMITTING AND REGULATING THE HUNTING OF MIGRATORY WATERFOWL AND COOTS WITHIN DESIGNATED AREA OF THE RED ROCK LAKES MIGRATORY WATERFOWL REFUGE, MONTANA

The first paragraph of the Order of the Secretary of Agriculture of October 7, 1936 (1 F. R. 1560), entitled "Order Permitting and Regulating the Hunting of Migratory Waterfowl and Coots within Designated Area of the Red Rock Lakes Migratory Waterfowl Refuge, Montana", is hereby amended so as to read as follows:

"Pursuant to regulations 1 and 8 of the regulations of the Secretary of Agriculture of May 7, 1930, governing the administration of Federal wildlife refuges, it is hereby ordered that migratory waterfowl (except those species not permitted to be taken under the Migratory Bird Treaty Act Regulations) and coots, may be taken during the period prescribed for the taking of such birds in Montana by the said Migratory Bird Treaty Act Regulations, if permitted by State law, within the area of Red Rock Lakes Migratory Waterfowl Refuge, in Beaverhead County, Montana, established by Executive Order No. 7023, of April 22, 1935, as enlarged by Executive Order No. 7172, of September 4, 1935, embraced within the exterior boundary hereinafter described, and designated "Public Shooting Ground" on the diagram hereto attached and made a part of this Order, subject to the following conditions and restrictions:"

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed at the City of Washington this 30th day of September 1937.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-2931; Filed, October 1, 1937; 3:42 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

CHANGING THE PROCEDURE FOR PAYMENT OF FEES AND LEGAL EXPENSES

AMENDING THE LEGAL CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Sections 4-a and 4-k of said Act as amended, section 602 (b) (c) and (e) of the Manual are amended as follows:

Section 602 (b) is continued by adding the following language at the end thereof:

"* * * and that no receipts or other evidence of disbursement of funds advanced shall be required for reimbursement of such State or District Office account from which such advance was made."

Section 602 (c) is amended to read as follows:

"Where the payment of any such fees or expenses is made by a salaried attorney, fee attorney, title company or trustee, an itemized statement covering such disbursements, certified to by any such attorney, title company or trustee, shall be accepted by the Auditor as sufficient evidence of the disbursement for the purpose of reimbursing the attorney, title company or trustee by whom the monies were paid or as settlement for funds advanced. Where the payment of any such fees or expenses is made by other than an attorney, title company or trustee, a properly certified voucher, or approval by the General Counsel, supported by receipts for all funds actually expended shall be accepted by the Auditor either as sufficient evidence of the disbursement for the purpose of reimbursing the individual payer or as settlement for funds advanced. The statement of the General Counsel as to the reason for the absence of any receipt shall be accepted by the Auditor in lieu thereof, provided the items for which no receipts are presented do not aggregate more than $100.00 in any one case."

Section 602 (e) is amended to read as follows:

"All monies necessary for fees, charges or expenses which may be incurred in the performance of any duty or function of the Legal Department shall be provided or advanced from the appropriate funds and charged to the appropriate accounts.

Adopted by the Federal Home Loan Bank Board on October 1, 1937.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 37-2940; Filed, October 4, 1937; 11:49 a. m.]

STATE INCIDENTAL EXPENSE ACCOUNTS; LIMITATIONS AS TO USAGE AND AMOUNTS; VOUCHERS AGAINST SUCH ACCOUNTS

AMENDING THE TREASURY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Sections 4-a and 4-k of said Act as amended, Section 721 of Chapter VII [1] of the Consolidated Manual is hereby amended to read as follows:

SEC. 721. Incidental Expense Accounts for State, Division, Territorial or District Offices maintained with the United States Treasury shall be in such amounts as may be determined by the Treasurer with the approval of the General Counsel, General Manager, and the Budget Director, provided the maximum amount shall not exceed $2,000.00 in any account.

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[1] 1 F. R. 1058.

The State, Division, Territorial or District Manager shall have full responsibility, within their respective jurisdictions, for proper disbursements from such accounts. These accounts shall be available for the disbursement of both administrative and non-administrative expenses as stipulated in the Independent Offices Appropriation Act for the fiscal year 1938; however, wherever practicable, vouchers for administrative expenses shall be submitted to the Home Office for disbursement. Non-administrative expenses shall be submitted for reimbursement to the proper Regional Office, and administrative expenses shall be submitted for reimbursement to the Home Office.

Adopted by the Federal Home Loan Bank Board on October 1, 1937.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 37–2939; Filed, October 4, 1937; 11:48 a. m.]

REGIONAL WORKING FUND MAINTAINED AS DISBURSING ACCOUNT; DISBURSEMENTS AUTHORIZED

AMENDING THE TREASURY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Section 4–a and 4–k of said Act as amended, Section 716[1] of Chapter VII of the Consolidated Manual is hereby amended to read as follows:

SEC. 716. The Regional Working Fund in each Regional Office shall be maintained as a Disbursing Account, and funds therein shall be available only for non-administrative expenses as distinguished from administrative expenses stipulated in the Independent Offices Appropriation Act for the fiscal year 1938.

The Regional Treasurer in each respective Regional Office is authorized and directed to make disbursements from the Regional Working Fund upon, and only upon, vouchers duly certified for payment from this account by the Auditor or an authorized deputy. Transfers to the respective Regional Working Funds shall be requested by the Regional Treasurer and approved by the Regional Manager.

Adopted by the Federal Home Loan Bank Board on October 1, 1937.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 37–2941; Filed, October 4, 1937; 11:49 a. m.]

CHANGING PETTY CASH FUND TO IMPREST CASH FUND TO BE USED ONLY FOR ADMINISTRATIVE EXPENSES

AMENDMENT OF TREASURER'S CHAPTER OF MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4–a and 4–k of said Act as amended, Section 705[1] of Chapter VII of the Consolidated Manual is hereby amended to read as follows:

SEC. 705. The Regional Treasurer is authorized to maintain an Imprest Cash Fund in an amount not in excess of $200.00 which may be obtained from the Home Office at the request of the Regional Manager. This fund shall be available only for administrative expenses as distinguished from non-administrative expenses stipulated in the Independent Office Appropriation Act for the fiscal year 1938; provided, that such administrative expenses shall be confined to postage, postage due, carfare, cost of Cashier's checks, and other items which it is not practicable to submit to the Home Office for disbursement. The Regional Treasurer shall be responsible for the propriety of all disbursements made from this fund. Vouchers for reimbursement of this fund shall be submitted to the Auditor in Washington as necessary but in no event less than once each week and the last day of each month. The Treasurer is hereby authorized and directed to reimburse the funds upon and only upon certification by the Auditor or his duly authorized deputies which certification shall specify the account from which disbursement shall be made.

Adopted by the Federal Home Loan Bank Board on October 1, 1937.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 37–2942; Filed, October 4, 1937; 11:49 a. m.]

[1] 1 F. R. 1059.
[1] 1 F. R. 1059; 2 F. R. 1133 (DI).

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3232]

IN THE MATTER OF AMERICAN OPTICAL COMPANY, A VOLUNTARY ASSOCIATION AND ALL ITS MEMBERS; GEORGE B. WELLS, INDIVIDUALLY AND AS PRESIDENT OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; IRA MOSHER, INDIVIDUALLY AND AS VICE PRESIDENT AND GENERAL MANAGER OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; CHARLES O. COZZENS, INDIVIDUALLY AND AS VICE PRESIDENT IN CHARGE OF SALES OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; JOHN M. WELLS, INDIVIDUALLY AND AS VICE PRESIDENT IN CHARGE OF RESEARCH LABORATORY OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; EDWARD E. WILLIAMS, INDIVIDUALLY AND AS TREASURER OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; A. TURNER WELLS, INDIVIDUALLY AND AS SECRETARY OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; ALBERT B. WELLS, INDIVIDUALLY AND AS CHAIRMAN OF THE BOARD, AND AS REPRESENTATIVE OF THE BOARD OF DIRECTORS OF AMERICAN OPTICAL COMPANY, AN ASSOCIATION; AND AMERICAN OPTICAL COMPANY, A CORPORATION, RESPONDENTS

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", commonly known as the Clayton Act, as amended by an Act of Congress, approved June 19, 1936, (U. S. C. Title XV, Section 13), commonly known as the Robinson-Patman Act, the Federal Trade Commission, having reason to believe that the respondents named in the caption hereof have violated, and are now violating the provisions of Subsection (a) of Section 2 of said Act as amended, hereby issues its complaint against the said respondents, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Optical Company, an association, is a voluntary association organized in 1912 under the laws of Massachusetts, as a common law trust, owning, holding or controlling all of the capital stock of respondent American Optical Company, a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business at Southbridge, Massachusetts.

The American Optical Company, a corporation, was organized by respondents to engage in and carry on manufacturing and sales activities of the respondents in states where the Massachusetts trust type of association is not recognized as a corporate entity, and the said respondent corporation is licensed to do and does carry on such business and sales activities for and on behalf of respondents in the States of Pennsylvania, Virginia, Ohio, Tennessee, Alabama, Michigan, Wisconsin, Texas, California, and Idaho.

Respondents George B. Wells, Ira Mosher, Charles O. Cozzens, John M. Wells, Edward E. Williams, A. Turner Wells, and Albert B. Wells, all of Southbridge, Massachusetts, are severally here made parties respondent in their respective

capacities as indicated in the caption hereof, individually, and as representative members of American Optical Company, the association.

PAR. 2. Respondents and each of them are now and have been since June 19, 1936, engaged in the business of manufacturing and selling optical goods and ophthalmic products, including lenses, frames, mountings, diagnostic instruments, optical machinery, tools and grinding and polishing materials to various retailers, independent wholesalers and chain business enterprises engaged in business as lessee-operators of the optical departments of various large department stores. Respondents effect the sale and distribution of these products through some 320 branch offices, each of which functions as a wholesaler. These branch offices are grouped into nine districts or sales territories, each with a central sales branch where the respondents maintain a stock of supplies on hand from which they supply the other branch sales offices in each district. Respondents employ over three hundred salesmen who call regularly upon the retail trade, and during 1936 did a volume of approximately $18,500,000.00 in total sales. The individual respondents herein named in their respective capacities as officers and Chairman of the Board and as representative of the association American Optical Company, control and direct the sales policies, pricing and selling activities engaged in by all of the said other respondents as hereinafter set forth.

PAR. 3. In the course and conduct of their respective businesses as aforesaid, respondents, and each of them, transports or causes to be transported the said products, when sold, from the places of their respective locations to the purchasers thereof located in the several States of the United States other than the States in which such shipments originated, and there is and has been at all times herein mentioned a current of trade and commerce in said products, between the States whrein these several respondents are located and the various other States of the United States.

Said respondents and each of them sell and distribute the aforesaid products for use, consumption or resale within the United States and the District of Columbia, in the same territories and places and in competition with various other manufacturers, distributors and wholesalers engaged in the sale of optical goods and ophthalmic products including lenses, frames, mountings, diagnostic instruments, optical machinery and tools and grinding and polishing materials.

Respondents' aforesaid purchaser customers are competitively engaged with each other and with the purchaser customers of respondents' competitors, in the resale of said products, both at wholesale and retail, within the several sales areas in which the said wholesale and retail customers respectively offer for sale and sell the said products of American Optical Company.

PAR. 4. Said respondents and each of them, in the course and conduct of interstate commerce as hereinbefore set forth, have, since June 19, 1936, discriminated in price and are now discriminating in the prices at which they and each of them have sold and do sell American Optical Company products and commodities of like grade and quality, between the different purchasers of such products and commodities, by giving and allowing certain of said purchasers a lower price than given or allowed other purchasers competitively engaged in said line of commerce, and by giving and allowing certain of said purchasers adjustments, rebates, or discounts in the form of cash or commodities not given and allowed to others of respondents' said purchaser customers. Respondents' purchaser customers in whose favor such price discrimination is made are generally the larger dealers who are thus enabled either to undersell their competitors or furnish superior facilities and services to the prospective consumer purchaser, or both, and thereby trade is diverted from the smaller retailer to the more favored and larger dealer in said products.

PAR. 5. The effect of such discrimination in price made by said respondents, as set forth in Paragraph Four hereof, may be substantially to lessen competition between the respondents and their aforesaid competitors; between the customers of respondents in whose favor such discrimination is made and respondents' other customers; and between the customers of respondents' competitors who do not grant such customers the benefit of such discriminatory prices and the customers of respondents in favor of whom respondents discriminate; or tend to create a monopoly in the aforesaid line of commerce in respondents and respondents' favored customers, and to injure, destroy and prevent competition with the said respondents and with those of respondents' customers who knowingly receive the benefit of such discrimination, and with the customers of each of them.

Such discrimination in price by said respondents, and each of them, between different purchasers of commodities of like grade and quality in interstate commerce in the manner and form aforesaid are in violation of the provisions of Subsection (a) of Section 2 of the Act described in the preamble hereof.

Wherefore, the premises considered, the Federal Trade Commission, on this 30th day of September, A. D. 1937, now issue this its complaint against said respondents, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, American Optical Company, an association; American Optical Company, a corporation; George B. Wells, Ira Mosher, Charles O. Cozzens, John M. Wells, Edward E. Williams, A. Turner Wells, and Albert B. Wells, respondents herein, that the 5th day of November, A. D. 1937, at 2:00 o'clock in the afternoon, is hereby fixed as the time and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be held on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(*a*) In cases arising under Section 5 of the act of Congress approved September 26, 1914, entitled "An Act to Create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Com-

mission Act), or under Sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An act to amend Section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., Title XV, Section 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint;

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 30th day of September, A. D., 1937.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 37-2935; Filed, October 2, 1937; 12:11 p. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3233]

IN THE MATTER OF BAUSCH & LOMB OPTICAL COMPANY, A CORPORATION, COLONIAL OPTICAL COMPANY, INC., MCINTIRE, MAGEE & BROWN, A CORPORATION, RIGGS OPTICAL COMPANY CONSOLIDATED, A CORPORATION, RIGGS OPTICAL COMPANY, INC., A CORPORATION, SOUTHEASTERN OPTICAL COMPANY, A CORPORATION, AND THE WHITE, HAINES OPTICAL COMPANY, A CORPORATION

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", commonly known as the Clayton Act, as amended by an Act of Congress, approved June 19, 1936, (U. S. C., Title 15, sec. 13), commonly known as the Robinson-Patman Act, the Federal Trade Commission, having reason to believe that the respondents named in the caption hereof have violated, and are now violating the provisions of Subsection (a) of Section 2 of said Act as amended, hereby issues its complaint against the said respondents, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Bausch & Lomb Optical Company is a corporation, organized and existing under and by virtue of the laws of the State of New York, and its principal office and place of business is located in the City of Rochester in said State. It is now, and has been since June 19, 1936, engaged in the business of manufacturing and selling optical goods and ophthalmic products, including lenses, frames, mountings, diagnostic instruments, optical machinery, tools and grinding and polishing materials, to various retailers, independent wholesalers and chain business enterprises engaged in business as lessee-operators of the optical departments of various large Department Stores. Such sales are by said respondent made both directly and through the other respondents hereinabove named in the caption and hereinafter more particularly designated and described. Respondent Bausch & Lomb Optical Company owns a controlling share of the stock in each of the said other respondent companies and exercises such control in directing the sales policies, pricing and selling activities engaged in by said other respondents in their respective businesses.

PAR. 2. (*a*) Respondent Colonial Optical Company, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business at 62 West 47th Street, in the City of New York in said State. Bausch & Lomb Optical Company owns and holds approximately 91% of the outstanding shares of voting stock issued by Colonial Optical Company, Inc.

(*b*) Respondent McIntire, Magee & Brown is a corporation, organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business at 1700 Walnut Street in the City of Philadelpnia, in said State. Approximately 58% of the oustanding shares of the voting stock by it issued are owned and held by the respondent Bausch & Lomb Optical Company.

(*c*) Respondent Riggs Optical Company Consolidated is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business at 222 W. NoBank Drive, in the City of Chicago, in the State of Illinois. Approximately 82% of the outstanding shares of voting stock by it issued are owned and held by the respondent Bausch & Lomb Optical Company.

(*d*) Respondent Riggs Optical Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business at Flood Building, in the City of San Francisco, in the State of California. Approximately 74% of the outstanding shares of voting stock by it issued are owned and held by the respondent Bausch & Lomb Optical Company.

(*e*) Respondent Southeastern Optical Company is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and place of business at 212 E. Franklin Street, in the City of Richmond in said State. Approximately 60% of the outstanding shares of voting stock by it issued are owned and held by the respondent Bausch & Lomb Optical Company.

(*f*) Respondent The White, Haines Optical Company is a corporation organized and existing under and by virtue of the laws of the State of Ohio, with its principal office and place of business at 82 N. High Street, in the City of Columbus, in said State. Approximately 72% of the outstanding shares of voting stock by it issued are owned and held by the respondent Bausch & Lomb Optical Company.

(*g*) Each of the respondents in said subsections (a) to (f) inclusive in this paragraph named is now, and since June 19, 1936, has been engaged in the business of selling at wholesale the aforesaid optical goods and ophthalmic products of the respondent Bausch & Lomb Optical Company.

PAR. 3. In the course and conduct of their respective businesses as aforesaid, respondents, and each of them, transports or causes to be transported the said products, when sold, from the places of their respective locations to the purchasers thereof located in the several States of the United States other than the States in which such shipments originated, and there is and has been at all times herein mentioned a current of trade and commerce in said products, between the States wherein these several respondents are located and the various other States of the United States.

Said respondents and each of them sell and distribute the aforesaid products for use, consumption or resale within the United States and the District of Columbia, in the same territories and places and in competition with various other manufacturers, distributors and wholesalers engaged in the sale of optical goods and ophthalmic products including lenses, frames, mountings, diagnostic instruments, optical machinery and tools and grinding and polishing materials.

Respondents' aforesaid purchaser customers are competitively engaged in the resale of said products, both at wholesale and retail, to the consumers or users thereof, within the several sales areas in which said purchaser customers respectively offer for sale and sell the said products of Bausch & Lomb Optical Company.

PAR. 4. Said respondents, and each of them, in the course and conduct of interstate commerce as hereinbefore set forth, have, since June 19, 1936, discriminated in price, and are now discriminating in the price at which they and

each of them have sold and do sell Bausch & Lomb Optical Company products and commodities of like grade and quality, between the different purchasers of such products and commodities, by giving and allowing certain of said purchasers a lower price than given or allowed other purchasers competitively engaged in said line of commerce and by giving and allowing certain of said purchasers adjustments, rebates or discounts in the form of cash or commodities not given and allowed to other of respondents' said purchaser customers. Respondents' purchaser customers in whose favor such discrimination is made, are generally the larger dealers who are thus enabled either to undersell their competitors or furnish better facilities and services to the prospective consumer purchaser, or both.

PAR. 5. The effect of such discrimination in price made by said respondents, as set forth in Paragraph Four hereof, may be substantially to lessen competition between the respondents and their aforesaid competitors; between the customers of respondents in whose favor such discrimination is made and respondents' other customers; and between the customers of respondents' competitors who do not grant such customers the benefit of such discriminatory prices and the customers of respondents in favor of whom respondents discriminate; and said discrimination tends to create a monopoly in the aforesaid line of commerce in respondents and respondents' favored customers, and to injure, destroy and prevent competition with the said respondents and with those of respondents' customers who knowingly receive the benefit of such discrimination, and with the customers of each of them.

Such discrimination in price by said respondents, and each of them, between different purchasers of commodities of like grade and quality in interstate commerce in the manner and form aforesaid are in violation of the provisions of Subsection (a) of Section 2 of the Act described in the preamble hereof.

Wherefore, the premises considered, the Federal Trade Commission, on this 30th day of September, A. D. 1937, now issues this its complaint against said respondents, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Bausch & Lomb Optical Company; Colonial Optical Company, Inc.; McIntire, Magee & Brown; Riggs Optical Company Consolidated; Riggs Optical Company, Inc.; Southeastern Optical Company; and The White, Haines Optical Company, respondents herein, that the 5th day of November, A. D. 1937, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence or other intervening procedure, to make, enter, issue, and serve upon respondent:

(*a*) In cases arising under Section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to Create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under Sections 2 and 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, Sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint;

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D. C., this 30th day of September, A. D. 1937.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 37-2936; Filed, October 2, 1937; 12:11 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1937.

[File No. 30-63]

IN THE MATTER OF BROKAW, DIXON & MCKEE

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by Brokaw, Dixon & McKee pursuant to Section 5 (a) of the Public Utility Holding Company Act of 1935, for an order declaring that said applicants who heretofore had filed a registration statement pursuant to Section 5 (b) of said Act, have ceased to be a holding company by reason of disposing of their control of gas utility companies.

It is ordered, That a hearing on such matter be held on October 20, 1937, at 10 o'clock in the forenoon of that day at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 15, 1937.

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2945; Filed, October 4, 1937; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, 1937.

[File No. 7-204]

IN THE MATTER OF INTERNATIONAL PAPER AND POWER COMPANY COMMON STOCK, $15 PAR VALUE

ORDER DENYING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the Boston Stock Exchange in International Paper and Power Company Class "A", Class "B" and Class "C" Common Stocks, No Par Value, having been permitted by action of this Commission on September 28, 1934; and

The Boston Stock Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said securities other than those specified in paragraph (a) of said Rule and asking the Commission to determine that the security after said changes is substantially equivalent to said securities heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and that the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2946; Filed, October 4, 1937; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, 1937.

[File No. 7-205]

IN THE MATTER OF INTERNATIONAL PAPER AND POWER COMPANY, 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE

ORDER DENYING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Extension of unlisted trading privileges on the Boston Stock Exchange in International Paper and Power Company 7% Cumulative Preferred Stock, $100 Par Value, having been permitted by action of this Commission on July 14, 1937, pursuant to Section 12 (f), Clause 2, of the Securities Exchange Act of 1934, as amended; and

The Boston Stock Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and that the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2947; Filed, October 4, 1937; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, 1937.

[File No. 7-206]

IN THE MATTER OF INTERBOROUGH RAPID TRANSIT COMPANY COMMON STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the Philadelphia Stock Exchange in Interborough Rapid Transit Company Voting Trust Certificates representing Common Stock, $100 Par Value, having been permitted by action of this Commission on September 29, 1934; and

Said Exchange, pursuant to paragraph "b" of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application be and the same is hereby made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2948; Filed, October 4, 1937; 12:52 p. m.]